

ASSEMBLY BILL

No. 1257

Introduced by Assembly Member House

February 28, 1997

An act to amend Section 34501.12 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1257, as introduced, House. Vehicles: commercial vehicles: inspections.

Existing law requires the Department of the California Highway Patrol to inspect, at least every 25 months, every terminal, as defined, of any motor carrier who, at any time, operates any of specified commercial vehicles. Existing law authorizes the department to establish and implement an incentive program to encourage truck terminal operators to attain continuous satisfactory compliance ratings.

This bill would modify the incentive program specified above and would authorize specified reduced levels of inspection for terminals attaining consecutive satisfactory safety compliance ratings, in addition to the incentive program.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34501.12 of the Vehicle Code is
2 amended to read:

1 34501.12. (a) Notwithstanding Section 408, as used in
2 this section and Sections 34505.5 and 34505.6, “motor
3 carrier” means the registered owner of any vehicle
4 described in subdivision (a), (b), (e), (f), or (g) of
5 Section 34500, except in the following circumstances:

6 (1) The registered owner leases the vehicle to another
7 person for a term of more than four months. If the lease
8 is for more than four months, the lessee is the motor
9 carrier.

10 (2) The registered owner operates the vehicle
11 exclusively under the authority and direction of another
12 person. If the operation is exclusively under the authority
13 and direction of another person, that other person may
14 assume the responsibilities as the motor carrier. If not so
15 assumed, the registered owner is the motor carrier. A
16 person who assumes the motor carrier responsibilities of
17 another pursuant to subdivision (b) shall provide to that
18 other person whose motor carrier responsibility is so
19 assumed, a completed copy of a department form
20 documenting that assumption, stating the period for
21 which responsibility is assumed, and signed by an agent
22 of the assuming person. A legible copy shall be carried in
23 each vehicle or combination of vehicles operated on the
24 highway during the period for which responsibility is
25 assumed. That copy shall be presented upon request by
26 any authorized employee of the department. The original
27 completed departmental form documenting the
28 assumption shall be provided to the department within 30
29 days of the assumption. If the assumption of responsibility
30 is terminated, the person who had assumed responsibility
31 shall so notify the department in writing within 30 days
32 of the termination.

33 (b) (1) A motor carrier may combine two or more
34 terminals for purposes of the inspection required by
35 subdivision (d) subject to all of the following conditions:

36 (A) The carrier identifies to the department, in
37 writing, each terminal proposed to be included in the
38 combination of terminals for purposes of this subdivision
39 prior to an inspection of the designated terminal pursuant
40 to subdivision (d).



(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d) a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 which are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) "Driver records" includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) "Maintenance records" includes all required maintenance, lubrication, and repair records and drivers' daily vehicle condition reports.

(C) "Representative sample" means the following, applied separately to the carrier's fleet of motor trucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (3) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,100 pounds, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste hauler registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles which display special identification plates in accordance with Section 5011, implements of husbandry, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee, which is nonrefundable, is four hundred dollars (\$400) per terminal, except in the case of an owner-operator, as defined in Section 3557 of the Public Utilities Code, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in

1 subdivision (a), (b), (e), (f), or (g) of Section 34500, for
2 which the fee shall be one hundred dollars (\$100).
3 Federal, state, and local public entities are exempt from
4 the fee requirements of this section.

5 (2) Except as provided in paragraph (4), the
6 inspection term for each inspected terminal of a motor
7 carrier shall expire 25 months from the date the terminal
8 receives a satisfactory compliance rating, as specified in
9 subdivision (h). Applications and fees for subsequent
10 inspections shall be submitted not earlier than nine
11 months and not later than seven months before the
12 expiration of the motor carrier's then current inspection
13 term. If the motor carrier has submitted the inspection
14 application and the required accompanying fees, but the
15 department is unable to complete the inspection within
16 the 25-month inspection period, then no additional fee
17 shall be required for the inspection requested in the
18 original application.

19 (3) All fees collected pursuant to this subdivision shall
20 be deposited in the Motor Vehicle Account in the State
21 Transportation Fund. An amount equal to the fees
22 collected shall be available for appropriation by the
23 Legislature from the Motor Vehicle Account to the
24 department for the purpose of conducting truck terminal
25 inspections and for the additional roadside safety
26 inspections required by Section 34514.

27 (4) To avoid the scheduling of a renewal terminal
28 inspection pursuant to this section during a carrier's
29 seasonal peak business periods, the current inspection
30 term of a terminal that has paid all required fees and has
31 been rated satisfactory in its last inspection may be
32 reduced by not more than nine months if a written
33 request is submitted by the carrier to the department at
34 least four months prior to the desired inspection month,
35 or at the time of payment of renewal inspection fees in
36 compliance with paragraph (2), whichever date is
37 earlier. A motor carrier may request this adjustment of
38 the inspection term during any inspection cycle. A
39 request made pursuant to this paragraph shall not result

1 in a fee proration and does not relieve the carrier from the
2 requirements of paragraph (2).

3 (f) It is unlawful for a motor carrier to operate any
4 vehicle subject to this section without having submitted
5 an inspection application and the required fees to the
6 department as required by subdivision (e) or (h).

7 (g) On and after July 1, 1992, it is unlawful for any
8 motor carrier to operate any vehicle subject to this
9 section after submitting an inspection application to the
10 department, without the inspection described in
11 subdivision (d) having been performed and a safety
12 compliance report having been issued to the motor
13 carrier within the 25-month inspection period or within
14 60 days immediately preceding the inspection period.

15 (h) (1) Any inspected terminal that receives an
16 unsatisfactory compliance rating shall be reinspected
17 within 120 days after the issuance of the unsatisfactory
18 compliance rating.

19 (2) A terminal's first required reinspection under this
20 subdivision shall be without charge unless one or more of
21 the following is established:

22 (A) The motor carrier's operation presented an
23 imminent danger to public safety.

24 (B) The motor carrier was not in compliance with the
25 requirement to enroll all drivers in the pull notice
26 program pursuant to Section 1808.1.

27 (C) The motor carrier failed to provide all required
28 records and vehicles for a consolidated inspection
29 pursuant to subdivision (b).

30 (3) If the unsatisfactory rating was assigned for any of
31 the reasons set forth in paragraph (2), the carrier shall
32 submit the required fee as provided in paragraph (4).

33 (4) Applications for reinspection pursuant to
34 paragraph (3) or for second and subsequent consecutive
35 reinspections under this subdivision shall be
36 accompanied by the fee specified in paragraph (1) of
37 subdivision (e) and shall be filed within 60 days of
38 issuance of the unsatisfactory compliance rating. The
39 reinspection fee is nonrefundable.

1 (5) When a motor carrier's Public Utilities
2 Commission operating authority is suspended as a result
3 of an unsatisfactory compliance rating, the department
4 shall conduct no reinspection until requested to do so by
5 the Public Utilities Commission.

6 (i) It is the intent of the Legislature that the
7 department make its best efforts to inspect terminals
8 within the resources provided. In the interest of the state,
9 the Commissioner of the California Highway Patrol may
10 extend for a period not to exceed six months the
11 inspection terms beginning prior to July 1, 1990.

12 (j) To encourage truck terminal operators to attain
13 continuous satisfactory compliance ratings, the
14 department may establish and implement an incentive
15 program consisting of the following:

16 (1) After the second consecutive satisfactory
17 compliance rating assigned as a result of an inspection
18 conducted pursuant to subdivision (d), and each
19 consecutive satisfactory compliance rating thereafter, an
20 appropriate certificate, denoting the number of
21 consecutive satisfactory ratings, shall be awarded to the
22 terminal, unless the terminal has received an
23 unsatisfactory compliance rating as a result of any
24 inspection conducted in the interim between the
25 consecutive inspections conducted under subdivision
26 (d).

27 (2) Unless the department's evaluation of the motor
28 carrier's safety record indicates a declining level of
29 compliance, a terminal that has attained two consecutive
30 satisfactory compliance ratings assigned following
31 inspections conducted pursuant to subdivision (d) is
32 eligible for an administrative review in lieu of the next
33 required inspection, unless the terminal has received an
34 unsatisfactory compliance rating as a result of any
35 inspection conducted in the interim between the
36 consecutive inspections conducted under subdivision
37 (d). An administrative review shall consist of all of the
38 following:

39 (A) A signed request by a terminal management
40 representative requesting the administrative review in

1 lieu of the required inspection containing a promise to
2 continue to maintain a satisfactory level of compliance for
3 the next 25-month inspection term.

4 (B) A review with a terminal management
5 representative of the carrier's record as contained in the
6 department's files.

7 (C) Absent any cogent reasons to the contrary, upon
8 completion of subparagraphs (A) and (B), the safety
9 compliance rating assigned during the last required
10 inspection shall be extended for 25 months.

11 (3) Administrative reviews may not be conducted
12 consecutively. At the completion of the 25-month
13 inspection term following an administrative review, a
14 terminal inspection shall be conducted pursuant to
15 subdivision (d). If this inspection results in a satisfactory
16 compliance rating, the terminal shall again be eligible for
17 an administrative review in lieu of the next required
18 inspection. If the succession of satisfactory ratings is
19 interrupted by a rating of other than satisfactory, the
20 terminal shall again attain two consecutive satisfactory
21 ratings to become eligible for an administrative review.

22 (4) *Notwithstanding paragraph (1) or (2), a terminal*
23 *that receives two consecutive satisfactory ratings as a*
24 *result of terminal inspections conducted pursuant to*
25 *subdivision (d), but has also received an unsatisfactory*
26 *compliance rating as a result of any other terminal*
27 *inspection conducted since the date of the first of those*
28 *two inspections, shall be ineligible to receive a certificate*
29 *of achievement or to choose an administrative review in*
30 *lieu of inspection.*

31 (k) *Unless the department's evaluation of the motor*
32 *carrier's safety record indicates a declining level of*
33 *compliance, in addition to the incentives set forth in*
34 *subdivision (j), the following reduced levels of inspection*
35 *are authorized for terminals attaining satisfactory safety*
36 *compliance ratings following inspections conducted*
37 *pursuant to subdivision (d), if no unsatisfactory*
38 *compliance rating has been assigned since the date of the*
39 *first of the consecutive satisfactory ratings:*

1 (1) After one satisfactory safety compliance rating and
2 after 50 percent of the representative sample of vehicles
3 as set forth in subparagraph (C) of paragraph (3) of
4 subdivision (b) has been inspected and no significant
5 violations have been detected, the remainder of the
6 vehicles in the representative sample may be inspected
7 using the North American Standard (NAS) Level 5
8 inspection of the Commercial Vehicle Safety Alliance.

9 (2) After two consecutive satisfactory safety
10 compliance ratings, the terminal shall be eligible for the
11 administrative review in lieu of inspection, as set forth in
12 subdivision (j).

13 (3) After three or more consecutive satisfactory safety
14 compliance ratings, the representative sample of
15 vehicles, as set forth in subparagraph (C) of paragraph
16 (3) of subdivision (b), may be reduced by 50 percent,
17 rounded to the nearest lower whole number. After 50
18 percent of this reduced representative sample of vehicles
19 has been inspected and no significant violations have
20 been detected, the remainder of the vehicles in the
21 reduced representative sample may be inspected using
22 the NAS Level 5 inspection authorized under paragraph
23 (1).

24 (4) When the number of vehicles to be inspected is
25 reduced pursuant to paragraph (1) or (3) above, the
26 number of maintenance records to be inspected shall be
27 reduced accordingly.

28 (5) Terminals that have not been inspected and rated,
29 terminals that have been rated unsatisfactory or
30 conditional, and terminals that are the subject of
31 complaint investigations shall be subject to indepth
32 inspection of the full representative samples of vehicles
33 and records.